

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/811,611
Filing Date: March 26, 2004
Applicant: Manish Sinha et al.
Group Art Unit: 1795
Examiner: Mark Ruthkosky
Title: LOAD FOLLOWING ALGORITHM FOR A FUEL CELL
BASED DISTRIBUTED GENERATION SYSTEM
Attorney Docket: GP-303576

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Sir:

The Examiner has required restriction between the invention of Group I, claims 1-12, drawn to a fuel cell power distribution system including a fuel cell, classified in class 429, subclass 22, and Group II, claims 16-22, drawn to a method for distributing power, classified in class 429, subclass 13. Further, the Examiner has also required election of the patentably distinct Species I, claims 1-12, to a fuel cell distribution system for a fuel cell, and Species II, claims 13-15, to a fuel cell distribution system for a hybrid power source including a fuel cell and a battery. Applicant hereby elects Group I, claims 1-12 and Species I, with traverse. Applicant submits that claims 1-15 read on Species I for a fuel cell distribution system for a fuel cell. For the reasons set forth below, Applicant

submits that the restriction and election requirement are improper, and respectfully requests reconsideration of same.

Independent claim 1 claims a fuel cell distribution system for controlling power being applied to a system load, and independent claim 16 claims a method for distributing power from a fuel cell to a load. The claimed system includes a fuel cell for generating a draw current and the claimed method includes drawing current from the fuel cell. The claimed system also includes a power condition module responsive to the draw current that conditions the draw current and applies the conditioned draw current to the system load, and the claimed method also includes conditioning the draw current in the power conditioning module and applying the conditioned draw current to the system load. The claimed system also includes a fuel cell sensor for measuring the draw current from the fuel cell, and the claimed method includes measuring the draw current from the fuel cell. The claimed system also includes a fuel cell controller that operates a load following algorithm that defines a command signal applied to the fuel cell that sets the available output power from the fuel cell, where the load following algorithm also defines a maximum current draw signal applied to the power conditioning module that defines a maximum current to be drawn from the fuel cell, and the claimed method also includes defining a command signal applied to the fuel cell that sets the available output power from the fuel cell and defining a maximum draw current signal applied to the power conditioning module that defines the maximum draw current to be drawn from the fuel cell.

Applicant respectfully submits that the Examiner has not shown a separate classification between the inventions of independent claims 1 and 16 because a proper

search area for the invention of one of the claims 1 and 16 would necessarily include the same search area for the other of the claims 1 or 16.

Applicant further submits that the Examiner has not shown a separate status in the art when the inventions are classifiable together because the Examiner has not shown a recognition of separate inventive effort by inventors. Where is the evidence showing a separate inventive effort by inventors?

Applicant further submits that the Examiner has not shown a different field of search because it is not possible that a search for the invention of independent claim 1 or 16 is unlikely to result in finding art pertinent to the other of the invention of independent claim 1 or 16. Therefore, Applicant respectfully submits that the Examiner has not established a serious burden for examining the inventions of Groups I and II together.

Applicant submits that the separation of claims 1-15 into Species I and Species II is improper. Independent claim 1 claims a fuel cell distribution system for controlling power being applied to a system load, and not a fuel cell distribution system for a fuel cell as suggested by the Examiner. Independent claim 13 claims a fuel cell distribution system for controlling power being applied to a system load, and not a fuel cell distribution system for a hybrid power source including a fuel cell and a battery as suggested by the Examiner.

Applicant acknowledges the Examiner's apparent position that a fuel cell system including a fuel cell is patentably distinct from a fuel cell system including a fuel cell and a battery. However, what is unclear to Applicant is how dependent claim 6 that includes a battery as part of the fuel cell system, and is part of Species I, is patentably distinct

from a fuel cell system including a fuel cell and a battery, as set forth in claim 13 of Species II. Applicant respectfully submits that separating claims 1-15 into Species I and II as suggested by the Examiner is clearly improper.

The Examiner is respectfully reminded of what it means for inventions to be distinct for restriction purposes. MPEP 802.01 states in capital letters that related inventions are distinct if one invention is patentable over the other invention.

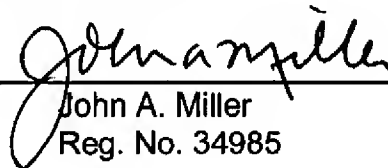
In view of the foregoing, it is respectfully requested that the restriction and election requirement be withdrawn, and all the claims be examined together.

Respectfully submitted,

MILLER IP GROUP, PLC

Attorney for Applicants

By:


John A. Miller
Reg. No. 34985

Dated: 11/6/07

42690 Woodward Ave., Ste. 200

Bloomfield Hills, MI 48304

Telephone: (248) 858-4200

Facsimile: (248) 858-4201